

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAMES PETTY, AIS# 124252,)
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Plaintiff,)
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)
)
v.) Case #2:06-CV-639-WKW
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)
)
)
RAY B. FINEDORE, et al.,)
)
)
Defendant.)

ANSWER

Comes now the Defendant, Ray Finedore, by counsel, denying Plaintiff's 1983 claims, and shows unto the Court the following:

1. The Complaint fails to state a claim against Finedore for Extortion. The Complaint cites no conduct on the part of Finedore that meets the elements of extortion as defined under State or Federal law. Finedore denies the allegation.
2. Plaintiff's claims against Finedore challenge his "due process" rights established under *Morrissey v*

Brewer, 408 U.S. 471 (1972), in which he seeks to overturn his parole revocation and incarceration.

Habeas corpus is exclusive remedy for state prisoner challenging fact or duration of his confinement and immediate or speedy release.

3. Plaintiff has failed to exhaust State remedies in challenging his "due process" rights in the parole revocation process. A writ of certiorari in Montgomery County Circuit Court is the state remedy for such a challenge.

4. The Complaint alleges Finedore violated Plaintiff's Constitutional right to "equal protection", but fails to cite any conduct wherein Finedore treated Plaintiff differently than other parolees similarly situated. Nor does Plaintiff show he is a member of a protected class entitled to such protection. Finedore denies the allegation.

5. Finedore is entitled to immunity from monetary damages. The Supreme Court held that a State official was immune, as the effect of suing him for equitable relief was to obtain relief from the

State. "Obviously, State officials literally are persons, but a suit against a State official in his or her official capacity is not a suit against the official but rather is a suit against the official's office.

Wherefore, premises considered the Defendant, Ray Finedore, moves the Court to dismiss him from this action.

Respectfully submitted,

TROY KING
ATTORNEY GENERAL

GREGORY O. GRIFFIN, SR.
CHIEF COUNSEL

s/STEVEN M. SIRMON
ASSISTANT ATTORNEY GENERAL
State Bar#: ASB-5949-S61S
Ala. Bd. Pardons and Paroles
P.O. Box 302405
Montgomery, Alabama 36130
Telephone: (334) 242-8700
Fax: (334) 353-4423
Steve.Sirmon@alabpp.gov

CERTIFICATE OF SERVICE

I hereby certify that on 9-12-2006 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: (None), and I hereby certify that on 9-12-06 I mailed , by United States Postal Service, the document to the following non-CM/ECF participants:

**JAMES PETTY
AIS #139044
EASTERLING CORRECTIONAL FACILITY
200 WALLACE DR.
CLIO, ALABAMA 36017-2615**

Done this 12th day of September 2006.

Respectfully submitted,

s/ STEVEN M. SIRMON
ASSISTANT ATTORNEY GENERAL
State Bar#: ASB-5949-S61S
Ala. Bd. Pardons and Paroles
301 South RIPLEY Street
P.O. Box 302405
Montgomery, Alabama 36130
Telephone: (334) 242-8700
Fax: (334) 353-4423
steve.sirmon@alabpp.gov